



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA  
Chief Executive Officer

June 7, 2011

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From: William T Fujioka  
Chief Executive Officer

## **SACRAMENTO UPDATE**

This memorandum contains three pursuits of County positions on legislation related to: 1) membership of a personnel or merit commission; 2) technical amendments to implement the 1115 Medicaid waiver; and 3) administration of anti-seizure medications; a pursuit of County position on a State Budget item related to In-Home Supportive Services anti-fraud activities; updates on five County-advocacy measures; and a status on County-interest legislation regarding the withdrawal of a library district from a county library system.

### **Pursuit of County Position on Legislation**

**AB 455 (Campos)**, which as amended on March 31, 2011, would provide that when a local public agency has established a personnel commission or merit commission to administer personnel rules or a merit system, the governing board of the public agency would appoint half of the members of the commission, and half of the members of the commission would be nominated by the recognized employee organizations.

The California State Association of Counties (CSAC) and the Regional Council of Rural Counties (RCRC) oppose AB 455. CSAC and RCRC indicate that a number of counties have established processes and procedures to address employment-related concerns. Further, county boards of supervisors need to have the ability to rule and make sound decisions regarding county operations during times when tight resources require maximum employee contributions in their job duties. CSAC and RCRC do not see any

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reason why the compositions of personnel commissions should be changed in State law and instead encourage the supporters of AB 455 to seek changes in the composition at the local level, and if the need arise, reconstruct each commission on a jurisdiction-by-jurisdiction basis according to need.

The League of California Cities indicates that AB 455 is an unnecessary intrusion into what is fundamentally a local municipal affair. Further, cities have constitutional authority to set compensation, determine the method of appointment, qualifications, tenure of office and removal of employees. This bill intrudes into that authority by interfering into this labor-management matter.

The Chief Executive Office's Employee Relations Branch indicates that AB 455 would pose many problems for Los Angeles County. Specifically, the County deals with 20 distinct employee organizations with different membership and interests, and different degrees of influence. Consequently, giving one employee organization the power to determine commission membership would result in lack of order and stalemates in decision-making. Furthermore, AB 455 would transfer power away from elected officials, who are responsible to the public, to employee organizations' officials, who are answerable only to their members.

The County Employee Relations Commission indicates that AB 455 would unduly insert partisanship into the commission's proceedings which would result in dysfunction and ineffectiveness.

The Chief Executive Office opposes AB 455. Therefore, consistent with existing Board policy to oppose adverse State actions on the County and policy to oppose any abridgment or elimination of the Board of Supervisors' powers and duties unless the change promotes a higher priority of the Board, **the Sacramento advocates will oppose AB 455.**

AB 455 is supported by the American Federation of State County and Municipal Employees, AFL-CIO, California Labor Federation, International Brotherhood of Electrical Workers, Service Employees International Union (SEIU) and others. The measure is opposed by the California State Association of Counties, the League of California Cities, and the Regional Council of Rural Counties.

AB 455 passed the Senate Public Employment and Retirement Committee by a vote of 3 to 2 on May 11, 2011, and is currently on the Senate Floor.

**AB 1066 (J. Perez)**, which as amended May 31, 2011, would make various, technical and conforming changes to implement the Special Terms and Conditions (STC) required by the Federal Centers for Medicaid and Medicare Services (CMS) for California's recently enacted 1115 Medicaid Waiver.

SB 208 (Chapter 714, Statutes of 2010) and AB 342 (Chapter 723, Statutes of 2010) enacted State law to implement the 2010 1115 Medicaid Waiver, including providing the authority to establish the Low-Income Health Program and Coverage Expansion Enrollment Projects and the Public Hospital Investment, Improvement and Incentive Fund. However, the STCs were not received from CMS prior to the enactment of SB 208 and AB 342. This measure, AB 1066, makes technical changes to existing law which are needed to comply with the Federal requirements specified in the STCs.

According to the Department of Health Services (DHS), AB 1066 will ensure that public hospitals receive the vital funding and reimbursement for the care provided to the patients we serve under the 1115 Medicaid Waiver.

The Department of Health Services and this office support AB 1066. Therefore, consistent with Board policy to support proposals to reform Medicaid, including the State Safety Net Care Pool and 1115 Medicaid Waiver components, and to increase Federal Medicaid funds for priority areas, such as primary and preventive health care, without reducing total available Medicaid funding levels, **the Sacramento advocates will support AB 1066.**

AB 1066 is supported by the California Association of Public Hospitals and Health Systems, the Urban Counties Caucus, and the Western Center on Law and Poverty. There is no registered opposition on file.

AB 1066 is scheduled for a hearing in the Senate Health Committee on June 15, 2011.

**SB 161 (Huff)**, which as amended May 31, 2011, would allow, in the absence of a school nurse, non-medical school personnel who have received training on a voluntary basis to administer emergency anti-seizure medication to students who are suffering from epileptic seizures. The bill requires the State Department of Public Health and the State Department of Education to develop guidelines for the training and supervision of school employees in providing emergency medical treatment to students who are suffering from epileptic seizures.

Existing law authorizes, in an emergency situation, non-medical school personnel to administer emergency epinephrine auto-injectors and Glucagon for diabetic students suffering from hypoglycemia, after they have received specified training. It also authorizes non-medical school personnel to assist or to administer medication to a student on a routine, non-emergency basis.

According to the Department of Health Services, approximately 200,000 new cases of epilepsy and seizures occur each year, and the highest prevalence is among school-aged children. DHS notes that uncontrolled seizures can damage a child's developing

brain, impact academic performance, and impede learning. The prompt administration of medication can make the seizure subside.

The Department of Health Services and this office support SB 161. Therefore, consistent with Board policy to support proposals that protect and improve the health of adolescents and young adults, **the Sacramento advocates will support SB 161.**

SB 161 is supported by the California School Boards Association; Disability Rights California; Epilepsy Foundation, California; Health Officers Association of California; Los Angeles County Office of Education; the Los Angeles Unified School District, and others. This measure is opposed by the American Nurses Association-California, California Labor Federation, California Nurses Association, Service Employee International Union-Nurses Alliance of California; the California Teachers Association, and others.

SB 161 passed the Senate Floor by a vote of 32 to 4 on June 2, 2011. This measure now proceeds to the Assembly.

#### **Pursuit of County Position on a State Budget Item**

**In-Home Supportive Services Anti-fraud Initiatives.** The Governor's FY 2011-12 Budget proposed \$10.0 million in State General Fund (SGF) for counties to continue implementation of In-Home Supportive Services (IHSS) anti-fraud initiatives. The Assembly and Senate Budget Subcommittees rejected the Governor's proposal and eliminated this funding from the FY 2011-12 State Budget.

The State Budget Acts of 2009 and 2010 each provided \$10.0 million to counties for IHSS fraud prevention, detection, referral, investigation, and prosecution activities. Counties that elect to pursue IHSS fraud initiatives are required to submit a plan for State approval detailing the specific program integrity activities, including staffing structure each county would establish with its allocation of the \$10.0 million. Participating counties also are required to provide local matching funds. The State and county shares are used to draw down Federal matching funds which increased the amount of funding for anti-fraud initiatives from \$10.0 million to approximately \$28.4 million statewide.

In November 2009, your Board approved the County's IHSS Anti-Fraud Program plan developed by the Department of Public Social Services (DPSS) in partnership with the District Attorney (DA). Subsequently, in August 2010, your Board approved the County's updated IHSS Anti-Fraud Program plan which included eleven IHSS program integrity initiatives for a combined annual Federal/State/County cost of \$10.0 million, which includes \$1.5 million net County costs.

According to the Department of Public Social Services, if the Governor's proposed \$10.0 million SGF for IHSS Anti-Fraud activities is not restored, **the County will lose a combined total \$8.5 million in State and Federal funding currently supporting the County's IHSS Anti-Fraud initiatives including 60 budgeted DPSS staff positions.** The following are examples of initiatives that would no longer be implemented: 1) front end verification review units for early fraud detection; 2) investment in additional investigation staff and teams involving different types of DA and DPSS staff; 3) creation of an overpayment collection unit; 4) an enhanced Quality Assurance/Quality Improvement Program; and 5) implementation of an IHSS data mining pilot currently being planned which would significantly increase fraud detection and prevention. The County would also lose the momentum it has gained over the past two years implementing these and other anti-fraud strategies that could ultimately save more dollars than invested in the initiatives themselves, through increased prevention and avoidance of fraudulent or erroneous provider payments.

The Department of Public Social Services and this office support the Governor's Budget proposal to provide funding for IHSS anti-fraud activities. Therefore, consistent with existing Board policy and directives to support proposals to improve program integrity and prevent fraud in the IHSS Program, **the Sacramento advocates will seek restoration of \$10.0 million in the FY 2011-12 State Budget to support county IHSS anti-fraud initiatives.**

#### **Status of County-Advocacy Legislation**

**County-supported AB 402 (Skinner)**, which as amended on May 27, 2011, would, among other provisions: 1) authorize a school district and county office of education to enter into a memorandum of understanding with the local agency that determines CalFresh program eligibility, or its designee, to share information provided on the School Lunch Program (SLP) application to determine an applicant's CalFresh program eligibility; 2) require each county to determine CalFresh program eligibility for children from the information provided on a SLP application; and 3) request parental consent to share information on the SLP application with the local county welfare offices to determine CalFresh eligibility, passed the Assembly Floor by a vote of 51 to 24 on June 1, 2011. This measure now proceeds to the Senate.

**SB 184 (Leno)**, which would authorize the legislative body of any city or county to adopt ordinances to establish inclusionary housing requirements as a condition of development, as specified, and declare legislative intent in superceding the court ruling in *Palmer/Sixth Street Properties, L.P. v City of Los Angeles* (2009), to the extent that the opinion in the case conflicts with the bill, failed passage on the Senate Floor on June 2, 2011, by a vote of 17 to 18, but was granted reconsideration.

**County-supported SB 194 (Senate Governance and Finance Committee)**, which as amended on May 31, 2011, is an omnibus bill that would make a number of minor, non-controversial changes to laws affecting the powers and duties of local agencies which have been proposed by local officials. Each item in the omnibus bill is extensively vetted and, if there is an objection, the item is removed from the legislation. Originally SB 194 contained one county-sponsored proposal related to change orders on county road contracts. This County-sponsored item would increase the upper limit amount a board of supervisors may delegate to a county road commissioner or other county officer to order changes or additions in the work being performed under county road contracts from \$150,000 to \$210,000.

As amended, SB 194 now contains an additional County-sponsored item that would authorize, subject to the approval of the county board of supervisors, a county to accept a payment of a donation, gift, bequest, or devise made to or in favor of a county, and/or the board of supervisors of a county, by credit card, debit card, or electronic funds transfer. The rest of the provisions contained in SB 194 do not directly affect County operations. SB 194 is currently set for hearing on June 29, 2011 in the Assembly Committee on Local Government.

**County-opposed SB 276 (Wright)**, which as amended on May 10, 2011, would authorize the Executive Director of the California Science Center to appoint certain security and safety personnel if there is no Exposition Park manager, passed the Senate Floor by a vote of 38 to 0 on May 27, 2011. This measure now proceeds to the Assembly.

**County-opposed SB 594 (Wolk)**, which as amended on May 25, 2011, would among other provisions, expand the types of services that must be performed by a city or county-operated public health laboratory, passed the Senate Floor by a vote of 23 to 14 on June 1, 2011. This measure now proceeds to the Assembly.

#### **Legislation of County Interest**

**AB 438 (Williams)**, which as amended on June 1, 2011, would establish specified contracting and auditing requirements that must be met if a city or library district intends to withdraw from the county free library system and operate the library with a private contractor that will employ library staff to achieve cost savings.

Specifically, AB 438 would place a number of new contracting and auditing requirements on any cities or library districts that wish to withdraw from the county free library system, including the requirement to publish notice of the contemplated action in a specified manner, clearly demonstrate that the contract will result in actual overall cost savings to the city or library district, ensure competitive bidding, prove qualifications of the contractor, prohibit the contract from causing the displacement of city or library

district employees, and impose performance and financial audits on contracts for library services in excess of \$100,000 annually. The bill also would provide that a city, library district, or local government would not be precluded from adopting more restrictive rules regarding the contracting of public services.

As reported in the May 27, 2011 Sacramento Update, the County removed its position of support, if amended, and currently has no position on AB 438. Previously, AB 438, as amended on April 4, 2011, would have required a city or the board of trustees of a library district that intends to operate the library or libraries with the help of a private contractor that will employ library staff to: 1) publish notice of the intent to withdraw from the county free library system; 2) submit the decision to withdraw for voter approval at a regularly scheduled election; and 3) notify the county board of supervisors of approval by the voters to withdraw from the county free library system. The County was seeking amendments to AB 438, as amended on April 4, 2011, to remove the existing withdrawal requirements that only apply to the counties of Los Angeles and Riverside and to expand voter approval requirement to any cities that wish to withdraw from a county public library system. However, the Sacramento advocates indicate that these amendments were not accepted by the author.

AB 438 passed the Assembly Floor by a vote of 43 to 28 on June 3, 2011. This measure now proceeds to the Senate.

We will continue to keep you advised.

WTF:RA  
MR:IGEA:lm

c: All Department Heads  
Legislative Strategist  
Local 721  
Coalition of County Unions  
California Contract Cities Association  
Independent Cities Association  
League of California Cities  
City Managers Associations  
Buddy Program Participants